

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: MICHAEL STOUT

)

OEIG Case # 10-00381

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Commission to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Executive Ethics Commission (“Commission”) received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Michael Stout at his last known address.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. Certain information contained in the proposed public response may have been redacted in accordance with the Commission’s determination that it should not be made public. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. Allegations and Background

The Office of Executive Inspector General (“OEIG”) received a complaint alleging that Illinois Department of Transportation (“IDOT” or “Department”) employee Michael Stout did not disclose his positions with the Illinois State Employees Association (“ISEA”) and the Southern and Central Illinois Laborers’ District Council (“District Council”) to the Department, used his IDOT vehicle, computer, email, and cellular telephone to conduct ISEA business, and conducted ISEA business on IDOT time. It was also alleged that Mr. Stout’s employment with ISEA constitutes a conflict of interest with his IDOT position. During the investigation, the OEIG discovered that Mr. Stout was absent from work on 23 occasions without submitting a

leave request which resulted in his being compensated for 92.75 hours that he was not at work and not docked benefit time.

Michael Stout is IDOT's Director of the Division of Traffic Safety. Mr. Stout's responsibilities include managing IDOT's behavioral traffic safety initiatives, directing staff, and meeting with community leaders.

II. Investigation

A. Failure to Document Outside Employment Allegation

i. Review of Documents Relating to Michael Stout's Outside Employment

OEIG investigators obtained and examined copies of Secondary Employment disclosure forms that Mr. Stout filed with IDOT on August 30, 2007, February 11, 2009, and March 10, 2010. Mr. Stout disclosed his position with ISEA on each form. However, Mr. Stout did not disclose his position with the District Council on any of these documents.

ii. Interviews of Michael Stout Regarding Outside Employment

1. First Interview of Michael Stout

On December 14, 2010, OEIG investigators interviewed Michael Stout. During the interview, Mr. Stout said that he began working as the ISEA Local 2002 Business Manager in 2002. Mr. Stout also stated that he was an elected member of the District Council.¹ According to Mr. Stout, he filed a Secondary Employment form with IDOT to disclose his employment with ISEA.

2. Second Interview of Michael Stout

On December 21, 2010, OEIG investigators re-interviewed Michael Stout. During the interview, Mr. Stout said that he is paid a monthly salary of [redacted] for his work with the District Council. Mr. Stout noted that the District Council previously provided elected members a stipend for attending meetings and had done so for the past few years. Investigators asked Mr. Stout if he filed a Secondary Employment form documenting this work. In response, Mr. Stout said, "I believe so."

B. Misuse of IDOT Property Allegations

i. Misuse of IDOT Vehicle

1. Review of a Photograph Relating to Michael Stout's IDOT Vehicle Use

¹ The District Council is a representative body comprised of various small laborers' unions throughout Illinois.

OEIG investigators obtained and reviewed copies of photographs taken outside the ISEA Local 2002 office in Springfield, Illinois. These pictures depicted a grey Ford Escape hybrid with the license plate “U25 430” parked outside of the ISEA Local 2002 office building.

2. Interviews of Michael Stout Regarding IDOT Vehicle Use

a. *First Interview of Michael Stout*

During his December 14, 2010 OEIG interview, Mr. Stout said that IDOT assigned him a grey Ford Escape hybrid from “sometime last year” until April 2010. Mr. Stout also stated that he occasionally drove his State vehicle to the ISEA Local 2002 office during the work day. Mr. Stout noted that he did not habitually stop at the ISEA Local 2002 while on State time.

b. *Second Interview of Michael Stout*

During his December 21, 2010 OEIG interview, Mr. Stout reiterated that he drove his assigned State vehicle to the ISEA Local 2002 office during the workday. Investigators presented Mr. Stout with the photos depicting a grey Ford Escape hybrid with the license plate number “U25 430” parked outside the ISEA Local 2002 office, and asked if it was his State vehicle in the photos. In response, Mr. Stout said, “that’s it.”

ii. *Misuse of IDOT Email and Computer*

1. Review of Michael Stout’s IDOT Email Archive

OEIG investigators obtained and examined the contents of Mr. Stout’s IDOT email archive from October 1, 2008 to January 11, 2010. During that time, Mr. Stout sent 77 emails unrelated to his work with IDOT. These messages included 45 emails to ISEA members regarding ISEA and other personal business. The emails to ISEA members were typically limited to one or two sentences. In addition, Mr. Stout received 96 emails advertising ticket sales from [a professional sports team].

2. Review of Michael Stout’s IDOT Computer Drives

OEIG investigators obtained and examined copies of Mr. Stout’s IDOT network folder and his IDOT computer hard drive. A review of these records revealed 73 electronic files unrelated to Mr. Stout’s work with the Department. The files included four documents containing ISEA Local 2002 organizational reports and meeting minutes, a variety of personal pictures, and various files relating to [a professional sports team], such as baseball schedules and letters requesting autographs from players.

3. Interview of Michael Stout Regarding Computer Use

During his December 14, 2010 OEIG interview, Mr. Stout said he uses his State computer and email for ISEA work and other personal business. Mr. Stout additionally stated

that he makes personal use of his IDOT email account, specifically to contact family members and sell [professional sports team's] tickets. Mr. Stout said that he did not believe sending and receiving personal emails was a problem.

iii. Misuse of IDOT Telephones

1. Review of Michael Stout's IDOT Telephone Records

OEIG investigators obtained and examined copies of Mr. Stout's IDOT cellular telephone records for calls between July 2009 and July 2010. During that time, Mr. Stout called the ISEA Local 2002 office 11 times during working hours for a total of 50 minutes. The calls ranged in duration between two and 11 minutes.

2. Interview of Michael Stout Regarding Telephone Use

During his December 14, 2010 OEIG interview, Mr. Stout said that he uses his IDOT cellular telephone to conduct ISEA business. Mr. Stout clarified that he rarely uses his IDOT cellular telephone in that manner.

C. Benefit Time Misuse Allegation

i. Review of Michael Stout's IDOT Timekeeping Records

OEIG investigators obtained and examined copies of Mr. Stout's IDOT timekeeping records from January 1, 2009 through September 16, 2010. A review of these records revealed numerous discrepancies between Mr. Stout's reported hours and his requested leave time. On 23 occasions, Mr. Stout did not file a leave request to correspond to entries on his timesheets which indicated that he used benefit time. As a result, Mr. Stout's timesheets reflect that he used 92.75 hours of benefit time that did not have a corresponding request or document noting his leave was authorized. The OEIG also reviewed IDOT Leave Entry/Update Reports, which record employee benefit time use. According to those records, Mr. Stout was not docked benefit time on any of the 23 dates on which he indicated his use of benefit time on his timesheet, but for which he did not file a leave request.

ii. Interview of Michael Stout Regarding Benefit Time Misuse

During his December 14, 2010 OEIG interview, Mr. Stout said that he does not have a defined work schedule, but that he must work at least 37.5 hours each week. Mr. Stout also stated timekeeping is "not one of my strong suits." OEIG investigators presented Mr. Stout with a series of his timesheets and leave requests that he improperly or inaccurately filed and asked that he explain the discrepancies. In response, Mr. Stout said that the timekeeper must have been mistaken when processing the records.

D. Time Abuse Allegation

i. Review of ISEA Meeting Agendas

OEIG investigators obtained and examined copies of agendas for the 20 ISEA meetings scheduled between January 2009 and August 2010. A review of these documents revealed that each of these meetings occurred on Saturday mornings or after Mr. Stout's scheduled IDOT hours.²

ii. Review of Michael Stout's IDOT Email Archive, Computer Drives, and Telephone Records

OEIG investigators obtained and examined copies of Mr. Stout's IDOT email archive, IDOT network drive, IDOT computer hard drive, and IDOT telephone records. As noted above, Mr. Stout sent 45 emails relating to ISEA business on State time. Mr. Stout's computer drives contained four electronic files relating to ISEA business. In addition, Mr. Stout telephoned the ISEA Local 2002 office 11 times for a total of 50 minutes between July 2009 and July 2010.

iii. Interview of Michael Stout Regarding Time Abuse

During his December 14, 2010 OEIG interview, Mr. Stout said that he is not involved in the day-to-day ISEA operations. Mr. Stout noted that he occasionally stops at the ISEA office during his lunch hour. Mr. Stout also said that he rarely receives emails or telephone calls related to ISEA during his working hours. Mr. Stout advised that when this does occur, he uses personal time to address the issue.³

E. Conflict of Interest Allegation

On May 20, 2010, OEIG investigators interviewed [an ISEA official]. During the interview, [the official] said that ISEA has contracts with eight State agencies, but does not have a contract with IDOT. Following [the official's] interview, OEIG investigators obtained and examined documents relating to ISEA's contracts with State agencies. A review of these records confirmed that ISEA does not have any agreement with IDOT.

III. Analysis

A. Michael Stout Violated the IDOT Secondary Employment Policy

IDOT Personnel Policy 15-4 states that employees may hold outside employment only after filing a Secondary Employment form with their supervisor.⁴

Michael Stout violated the IDOT Secondary Employment policy. Mr. Stout served as the ISEA Local 2002 Business Manager and was a paid member of the District Council. However, Mr. Stout only disclosed his ISEA position to IDOT. Accordingly, he never obtained

² OEIG investigators obtained and reviewed copies of Mr. Stout's IDOT timekeeping records to ascertain his working hours.

³ According to his IDOT timekeeping records, Mr. Stout did not use benefit time during the time periods he sent emails or made telephone calls regarding ISEA.

⁴ Prior to March 1, 2010, IDOT did not require employees disclose outside employment unless it constituted a conflict of interest.

supervisory approval to maintain an outside position with the District Council, as IDOT policy required. Therefore, the allegation that Mr. Stout violated the IDOT Secondary Employment policy is **FOUNDED**.

B. Michael Stout Violated IDOT Property Use Policies

i. Michael Stout's Use of His IDOT Vehicle

IDOT Departmental Order 11 Chapter 2-1(a) states that employees may use State vehicles “only in the performance of essential duties related to the completion of official State business.” Chapter 2-1(c)(1) defines unauthorized use as “[u]se for any personal purposes other than those which have been” expressly authorized.

Michael Stout violated the IDOT Vehicle Use policy. OEIG investigators obtained photographic evidence that Mr. Stout drove his IDOT vehicle to the ISEA Local 2002 office. During his OEIG interviews, Mr. Stout confirmed that he drove his State vehicle to the ISEA office and identified the vehicle in the photographs as his State vehicle. Traveling to the ISEA office, and conducting ISEA business, was not one of Mr. Stout's official IDOT duties. In addition, ISEA did not have a collective bargaining agreement with IDOT and, therefore, any activity Mr. Stout undertook at the ISEA Local 2002 office was completely personal in nature. Therefore, the allegation that Mr. Stout misused his State vehicle is **FOUNDED**.

ii. Michael Stout's Use of IDOT Information Technology

IDOT Personnel Policy 10-3(S)(2)(e) states that “employees shall not use State information technology resources for personal use.”⁵ In addition, IDOT Departmental Order 8-2(5)(B)(3) states that software on IDOT computers is for official business only. IDOT Departmental Order 8-2(5)(B)(7) further provides that “email use is limited to official business, [h]owever, utilization of email will be considered reasonable if it ... does not adversely affect the performance of official duties by the employee and is reasonable duration and frequency.” This section also states that sending and receiving commercial advertisements, personal photographs, and chain letters are all impermissible uses of IDOT email accounts.

Michael Stout violated the IDOT Information Technology Use policies. OEIG investigators determined that Mr. Stout composed and viewed 73 electronic files on IDOT computers that were not related to official business, such as ISEA documents, files related to the St. Louis Cardinals, and various personal pictures. During his OEIG interview, Mr. Stout admitted that he used his State computer for personal business. None of these items pertains to Mr. Stout's IDOT duties and therefore may not be accessed or stored on his State computer.

Mr. Stout also violated IDOT policy by sending emails that are not authorized by IDOT policy. Between October 2008 and January 2010, Mr. Stout sent 77 emails unrelated to IDOT business and received 96 emails that contained commercial advertisements. Mr. Stout confirmed

⁵ This policy supersedes IDOT Personnel Policy 11-3(R)(2)(e) (2002), which utilized the same language and governs Mr. Stout's conduct prior to February 1, 2010.

that he made personal use of his State email. Although the volume of emails Mr. Stout sent and received over 16 months may have been limited, IDOT policy expressly prohibits employees from receiving emails containing commercial advertisements. Thus, the allegation that Mr. Stout violated IDOT policy by misusing IDOT information technology resources is **FOUNDED**.

iii. Michael Stout's Use of His IDOT Telephone

IDOT Departmental Order 13-2(2) permits employees to make reasonable personal use of IDOT telephones. IDOT Departmental Order 13-2(3)(A) states that a call is authorized if it does not affect the employee's performance of his official duties, is of reasonable duration and frequency, and could not have been made during non-working hours.

Michael Stout did not violate the IDOT telephone use policy. Mr. Stout stated that he rarely used his IDOT cellular telephone to conduct ISEA business. Between July 2009 and July 2010, Mr. Stout telephoned the ISEA Local 2002 office 11 times for a total of 50 minutes, or approximately once monthly. The OEIG does not interpret his having made approximately one personal call each month for an average of fewer than five minutes as a violation of IDOT policy. There is no evidence that Mr. Stout's job performance suffered because of the calls. Likewise, there is no evidence that Mr. Stout could have made the 11 brief calls outside of working hours. Therefore, the allegation that Mr. Stout misused his IDOT cellular telephone is **UNFOUNDED**.

C. Michael Stout Violated the IDOT Benefit Time Policies

IDOT Personnel Policy 9-3 (2010) requires an employee to obtain his or her supervisor's approval before utilizing benefit time.⁶

Michael Stout did not properly use benefit time to account for his absences. The OEIG analysis of Mr. Stout's timekeeping records revealed that he indicated on his timesheets that he used benefit time on 23 days between April 2009 and April 2010, for a total of 92.75 hours, but never filed a corresponding leave request. In these instances, Mr. Stout apparently did not seek or obtain supervisory approval prior to taking time off work. As a result, Mr. Stout was absent from work for the equivalent of more than 12 days of time without his supervisor's approval. In addition, the IDOT Leave Entry/Update Report records indicate that the Department never debited Mr. Stout's benefit time account for these absences. Thus, Mr. Stout's representations on his timesheets that he used benefit time were inaccurate. As a result, Mr. Stout obtained paid time off without using any form of benefit time. While Mr. Stout stated that these errors were the fault of the timekeeper, it was Mr. Stout's responsibility to fill out leave requests when using benefit time and to ensure the accuracy of his own time records. Thus, the allegation that Mr. Stout violated the Department's timekeeping policy is **FOUNDED**.

D. Insufficient Evidence that Michael Stout Abused Time

⁶ This policy superseded IDOT Personnel Policy 9-2 (2002), which utilized the same language and governs Mr. Stout's conduct prior to February 1, 2010.

IDOT Personnel Policy 7-2(A) states that employees are expected to be at their work stations and ready to work at the appointed starting time until the appointed quitting time. Employees must also accurately document their time worked. IDOT Personnel Policy 7-5(A)(1) states that employees are permitted two fifteen minute paid rest periods during the workday.

The OEIG investigation did not reveal any evidence that Mr. Stout impermissibly conducted ISEA business during his IDOT working hours. There was no evidence that Mr. Stout attended ISEA meetings on IDOT time or attended to other substantial ISEA business from his IDOT office. Mr. Stout acknowledged that he used State resources to send emails and make telephone calls relating to ISEA during his working hours, but said that he used personal time to do so. According to his timekeeping records, Mr. Stout did not use any benefit time to account for the emails and telephone calls. All of Mr. Stout's telephone calls were shorter than fifteen minutes and there was no evidence that Mr. Stout's two sentence ISEA emails required more than fifteen minutes to compose. Accordingly, Mr. Stout could have attended to the emails and telephone calls during his unrecorded rest periods. Thus, the allegation that Mr. Stout conducted ISEA business on IDOT time in a manner that violated IDOT policy is **UNFOUNDED**.

E. Michael Stout Did Not Violate the IDOT Conflict of Interest Policy

IDOT Personnel Policy 15-1 states that Department employees must avoid situations giving rise to actual and apparent conflicts of interest. The purpose of this policy is to guarantee that Department employees "maintain unusually high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of Department business."

Michael Stout's work with ISEA Local 2002 did not constitute a conflict of interest with his IDOT duties. The OEIG investigation reveals that ISEA does not have a collective bargaining agreement with the Department. Consequently, Mr. Stout's IDOT supervisory duties did not conflict with his outside interest in aiding ISEA members. Therefore, the allegation that Mr. Stout's ISEA position constituted a conflict of interest is **UNFOUNDED**.

IV. Recommendations

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Michael Stout did not disclose his outside employment with the District Counsel to IDOT.
- **FOUNDED** – Michael Stout used his State vehicle for unauthorized purposes.
- **FOUNDED** – Michael Stout used his State computer and email to conduct personal business.
- **FOUNDED** – Michael Stout did not properly use benefit time.
- **UNFOUNDED** – Michael Stout impermissibly used his IDOT cellular telephone to conduct ISEA business.
- **UNFOUNDED** – Michael Stout impermissibly conducted ISEA business on IDOT time.

➤ **UNFOUNDED** – Michael Stout’s employment with ISEA constitutes a conflict of interest.

The OEIG recommends that Michael Stout be subject to discipline for his: (1) failure to completely disclose his outside employment to IDOT; (2) misuse of his State vehicle; (3) misuse of his State computer and email account; and (4) failure to properly use benefit time. The OEIG also recommends that IDOT remind Mr. Stout of the timekeeping policies pertaining to benefit time administration. The OEIG additionally recommends that IDOT consider seeking restitution from Mr. Stout in the amount of \$5,072.58 or deduct 92.75 hours from his benefit time account, to reflect the benefit time Mr. Stout indicated on his timesheets that he used but for which he did not submit a benefit request.

No further investigation is required and this matter is considered closed.

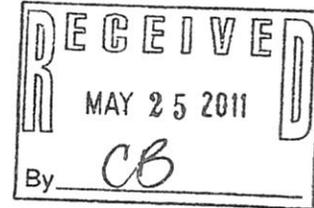


Illinois Department of Transportation

Office of the Secretary
2300 South Dirksen Parkway / Springfield, Illinois / 62764
Telephone 217/782-5597

May 23, 2011

Mr. Richard Meza
Executive Inspector General
Office of Executive Inspector General
32 West Randolph Street, Suite 1900
Chicago, Illinois 60601



Dear Mr. Meza:

This is in response to your April 8, 2011 letter regarding case number 10-00381 in which you requested that we report to your office the actions taken to address your recommendations.

I have taken the following actions. (1) Mr. Michael Stout has submitted an outside employment form for his employment with the District Counsel and has been instructed to keep any future outside employment matters current with the department. (2) Mr. Stout has been counseled about the department's vehicle usage program. At the current time Mr. Stout does not have a state vehicle assigned to him. (3) Mr. Stout has been counseled concerning the current department policy about use of his state computer. (4) Mr. Stout's benefit time is being corrected through the preparation of Leave Request Forms to properly reflect his use of 92.75 hours as detailed in your report.

Finally, Mr. Stout has been disciplined by the issuance of a letter of reprimand from me reminding him that any future violations of the department policy will result in additional disciplinary action.

If you have any questions, or if I can be of further assistance to you or your staff, please do not hesitate to contact me.

Sincerely,

Gary Hannig
Secretary

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OCT 11 2011

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

EXECUTIVE
ETHICS COMMISSION

IN RE: Michael R. Stout

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10-00381

RESPONDENT'S SUGGESTIONS FOR REDACTION/PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

Attached is my public response. Please make this response public if the summary report is also made public; and

Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

Michael R. Stout
Respondent's signature

10/11/2011
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

**IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS**

In re:)
)
MICHAEL STOUT) OEIG Case No. 10-00381

MICHAEL STOUT’S RESPONSE TO OEIG FINAL REPORT

I am submitting this Response to the Final Report (“Report”) of the Office of the Executive Inspector General (“OEIG”) regarding an investigation of seven (7) allegations regarding my employment at the Illinois Department of Transportation (“IDOT”).

I. The Allegations Determined to Be Unfounded

Several of the allegations investigated involved my secondary employment with the Illinois State Employees’ Association (“ISEA”) and the Southern and Central Illinois Laborers’ District Council (“District Council”). Allegations were made that my outside secondary employment constituted a conflict of interest, that I improperly conducted ISEA business on IDOT time and that I used my IDOT-issued cellular phone to conduct ISEA business. All of these allegations were determined to be unfounded. As noted in the Report, ISEA and its affiliates do not have any collective bargaining agreements with IDOT.

The Report notes that “The purpose of the conflict of interest policy is to maintain unusually high standards of honesty, integrity and impartiality and conduct to ensure the proper performance of department business.” I strived to adhere to that policy and I agree with the conclusion of the OEIG’s Report that it was not violated.

II. Other Allegations

In response to the remaining allegations which the Report states are founded, I offer the following information:

A. Failure to Document Outside Employment

The Report notes that prior to March 1, 2010, IDOT did not require employees to disclose outside secondary employment unless it constituted a conflict of interest. As noted, my outside secondary employment was determined not to constitute a conflict of interest.

Nevertheless, I filed forms disclosing my position with ISEA on August 30, 2007, February 11, 2009 and March 10, 2010. I began working with ISEA's Local 2002 after being elected to a three year term as business manager in 2002. I have been re-elected as business manager on three subsequent occasions. Business managers, pursuant to the organizational documents of the various laborer organizations, are automatic delegates to their respective District Council. As my status as a business manager with ISEA was the reason that I was a representative of the District Council, I assumed the disclosure of my ISEA employment as a business manager was sufficient to cover both positions.

I did disclose my outside employment. Apparently, the detail I provided was insufficient. I will ensure that future disclosures are more detailed as far as disclosing the fact that I am a delegate to the District Council.

B. Misuse of IDOT Property

1. Misuse of IDOT Vehicle

The allegations made in the Report were that I drove my state vehicle to ISEA's Local 2002 office during the work day. I did not stop at ISEA's Local 2002 office on state time. I stopped at the office during my lunch hour or after work. The incident referred to in the Report occurred because I drove my state-assigned vehicle to a meeting at Laborers' Local 2002 on my way home after work. At that time, I was assigned a state vehicle like other directors at IDOT. The policy was changed over a year ago and I no longer am assigned a state vehicle. I have used

my personal vehicle for numerous IDOT meetings in and around Springfield. I regularly travel roundtrip to the IDOT Hanley Building, which is over twice the distance compared to the distance traveled to the after work meeting in question. My trips in my personal vehicle include regular press events at the State Capital and numerous other state agencies in Springfield. At no time, have I claimed mileage for use of my personal vehicle.

2. Misuse of IDOT Computer

The Report noted that the volume of non-IDOT e-mails I sent or received over the 16-month period in question was limited. The Report indicated that, during my interview, I stated I did not believe sending and receiving personal e-mails was a problem. The basis of my belief was Illinois Department of Transportation E-mail Policies and Procedures attached to this Response which provides as follows:

The use of Department e-mail is limited to official IDOT business. Other use of Department e-mail will be considered reasonable if:

- it does not adversely affect the performance of official duties by the employee or the employee's organization and;
- it is of reasonable duration and frequency.

I believed this Policy permitted IDOT employees to reasonably use the department e-mail system and do not believe my use was unreasonable. I believe my e-mail use did not adversely affect the performance of my official duties and, given the limited nature of the e-mails at the duration and frequency of non-business e-mails, was not improper. The Report indicated that, during the period in question, I sent 77 e-mails unrelated to IDOT business. In a 15-month period, this is an average of 5 e-mails per month or 1.4 e-mails per week. The OEIG indicated that I received 96 e-mails during this same period or approximately 6 e-mails per month from baseball ticket advertisements. I am a season ticketholder and have no need to purchase additional tickets. These e-mails were seldom, if ever opened. With regard to the statement that

I used my IDOT e-mail account to sell tickets, this statement is incorrect. Any ticket sales I did were done on my personal computer. For some reason, the ticket service used both my state and personal e-mail addresses to notify me of ticket availability.

When reviewing an employee's use of personal e-mail usage on state time, I feel it is only fair that the same weight should be given to the employee sending e-mails pertaining to state business on the employee's personal time. If that type of investigation would have been done, as I requested, the number of personal e-mails read and written on state time would represent a minute fraction of state e-mails pertaining to state business which I read and wrote on my personal time.

Since my employment at IDOT in 2003, it has been my regular and constant practice to read, write and respond to state e-mails before work, during meal periods, after work, evenings, weekends, holidays, vacations, sick time, earned equivalent time and personal time.

For example, on June 22, 2011, I read, wrote and/or responded to 73 state related e-mails. I was signed out that day on leave on June 22, 2011. In addition, I was off most of the last two weeks of June. A simple review of those two weeks would show I read, wrote and responded to hundreds of state e-mails when I was on leave. As an example, on June 28, 2011, a family member had knee replacement surgery for which I used accrued leave. A total of 28 state related e-mails were processed while my spouse was in surgery. Over the period of my employment at IDOT, I have used my personal computer numerous times to work on state documents, reports, briefing papers and e-mails.

I submit that there is no evidence that my private e-mail usage on my state computer has adversely affected my official duties. To hold my use of the state e-mail system for personal use

against me without comparing my personal time answering and responding to state e-mails is unfair.

3. Alleged Violations of IDOT Benefit Time Policies

To understand the nature of the allegations addressed in the Report, it is necessary to understand IDOT timekeeping policies. IDOT employees are required to complete timesheets. These timesheets show the time away from the office which may be leave time, sick time, personal time or earned equivalent time, which are all allowed under IDOT personnel policies. For instance, if I were to take a vacation on a particular day, my timesheet would show I was out of the office on leave. There is also a form called "Leave Request Form" which is filled out to document the approval of the leave time reflected on the timesheets. My timesheets accurately reflected the times I was out of the office using leave time or benefit time. The problem encountered was the failure to submit a leave request for 23 instances when I was out of the office as reflected on my timesheets. During the period in question, I filed approximately 90 leave slips for various reasons including vacation time, and furlough days. On 30 of those occasions, I took furlough as mandated by the governor's office. The Report indicates I did not file a leave slip on 23 days. During this period of time, I would either fill out my leave slip or my administrative assistant would fill out the leave slip. The administrative assistant who worked for me during this period of time is no longer employed at IDOT. I am unable to determine a reason why leave slips may not have been submitted on these 23 instances. However, had I been trying to misuse my leave or personal time to ensure that it was not debited in my personnel records, I would certainly not have correctly filled in the timesheets documenting the times and reasons I was absent from work. In fact, it is the accurate timesheets which provided the ability to audit my time records to determine that time which I had properly

recorded on my timesheets had not been documented with a leave slip which would make the adjustment in my time records. To my knowledge, based on an audit done by IDOT, the amount of hours involved in the 23 instances constitutes 98.5 hours rather than the 92.75 hours stated in your Report. To my knowledge, my leave records have been corrected and all of this time is properly deducted from my accrued leave, sick or EET time. I had more than adequate accrued time to allow these deductions. The Report notes that I “apparently did not seek or retain supervisory approval prior to taking time off work.” My leave slips may not have been properly filed for each instance of sick or leave time, but I sought approval or notified my supervisors that I was taking leave or sick time. My supervisors, during the time period in question, were Secretary of Transportation Gary Hannig and Bill Grunloh. Lisa Kavanagh was the administrative assistant for Secretary Hannig. Attached hereto are 14 e-mails notifying my supervisors that I was taking time away from the office for personal, sick or furlough days. All of these e-mails were sent on one of the 23 occasions in which leave slips were not filed. Consequently, my time off was reported to my supervisors. I never received any communication indicating that I was not authorized to take off the time reflected in the e-mail notifications.

Further, each and every time I have taken off in 8 years, I have made myself available to conduct state business. During the period in question, I read and/or answered over 500 state emails while I was on leave. On numerous occasions, I have participated in state business related teleconferences, emails and phone calls while off work. I routinely answer emails and telephone calls before work, during lunch, after work, on weekends, personal time and vacations. I have stopped by the office numerous times for more than a few minutes when off on vacation or other approved leave.

I regret that the leave slips were not properly filled out. Whether the duty to fill out the leave slips was mine or that of my administrative assistant is immaterial. I accept responsibility for not assuring that the paperwork was properly completed. As noted, I believe that all of the 23 instances described in the Report have been properly debited from my accrued leave totals. I will personally review the time periods outside those investigated to ensure that my leave totals are proper.

III. Agency Response

I have reviewed the Response of IDOT to the Report and believe that the actions they have taken are proper. While I believe that the most serious allegations of the investigation were unfounded, I will strive in the future to ensure that my recordkeeping is more precise and to monitor my personal use of IDOT communications equipment.

IV. Conclusion

I am proud to hold the position of Director of Traffic Safety at IDOT. I work hard to ensure that we provide the best traffic safety services possible to the citizens of Illinois. It has always been my goal to do so and continues to be my goal to do so in the future.

Since becoming the director of the Division of Traffic Safety (“DTS”) at IDOT, the department has received several state, regional and national honors and awards. The United States Department of Transportation and Roadway Safety Foundation awarded DTS its National Roadway Safety Award in 2009. In 2009, the Governor’s Highway Safety Association recognized DTS’ effort to reduce teen fatalities with its Peter R. O’Rourke Special Achievement Award.

Over the past seven years, I have worked with traffic safety staff and its partners to develop and implement new programs in an effort to reduce traffic fatalities. The department's effort, along with the Governor, Secretary of State, General Assembly, Illinois law enforcement and traffic safety advocates, has resulted in traffic fatalities dropping to levels not seen since 1921. Illinois is viewed nationally as a leader in reducing traffic deaths and injuries, I'm proud to have played a role in this.

Illinois State Police Director Larry Trent honored me with that department's Director's Award of Distinction for his leadership in reducing teen traffic fatalities. Earlier this year, the Students Against Destructive Decisions (SADD) national organization honored MS with their Outstanding Contribution Award for the same. I have never received a performance evaluation of less than clearly outstanding.

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- The use of Department e-mail is limited to official IDOT business. Other use of Department e-mail will be considered reasonable if:
 - it does not adversely affect the performance of official duties by the employee or the employee's organization, and;
 - it is of reasonable duration and frequency.
- E-mail messages containing chain letters, cartoons, games, non-work related photographs and/or advertisements for non-work related functions or events are not considered reasonable use of the e-mail system.
- Users must exercise professionalism in all e-mail correspondence.
- Sending, transmitting, posting, or otherwise disseminating proprietary Department data or other information identified as confidential without authorization is strictly prohibited.
- E-mail that contains confidential or sensitive information, especially when transmitted outside the Department should include a confidentiality statement.
- E-mail messages may not contain language or references that is or would be perceived by a reasonable person to be offensive or harassing, including but not limited to: disparagement of others based on race, national origin, sex, sexual orientation, age, ability, religion, political beliefs, etc.
- E-mail messages may not contain threatening language to subordinates, management, peers or others.
- Access to personal e-mail accounts (AOL, Yahoo, HotMail, etc.) or other non-IDOT e-mail sources (school, consultant business, etc.) through Department Information Technology Resources is generally prohibited unless it falls within the defined "reasonable use" (see first bullet above).
- Altering the "From:" line, "Date:" line, or any other attribution-of-origin information in e-mail messages or postings is strictly prohibited.
- Anonymous or pseudonymous electronic communications are forbidden.
- All e-mail correspondence should include an appropriate signature line.
- Use Out-of-Office Auto-Reply to automatically reply to incoming e-mail when away.

- The Outlook E-mail inbox has size limitations. File or delete e-mail messages regularly.
- Users should forward inappropriate e-mails to SPAMREPORT@securecomputing.com

Mike Stout

From: Stout, Michael R
Sent: Wednesday, March 11, 2009 7:59 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Out today

I will be off today on personal business, will check emails as often as possible.

Mike Stout

From: Stout, Michael R
Sent: Tuesday, July 07, 2009 12:17 PM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Off this afternoon

If necessary, feel free to call me at home 522 2706

Mike Stout

From: Stout, Michael R
Sent: Tuesday, September 08, 2009 11:49 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: This afternoon
Attachments: image001.gif

I'm not feeling well, my blood sugar (diabetic) got very low last night. It's under control, going home to rest.

Michael R. Stout
Governor's Highway Safety Representative
Director - Division of Traffic Safety
Illinois Department of Transportation
3215 Executive Park Drive
Springfield, IL 62794-9245
217-782-4972
217-782-9159 (fax)



Mike Stout

From: Stout, Michael R
Sent: Friday, October 09, 2009 9:37 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L; Moore, Rita A
Subject: Furlough day

Wrote this email before 8:00 am, forgot to send! Off on furlough day.

Mike Stout

From: Stout, Michael R
Sent: Tuesday, October 27, 2009 12:30 PM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Going home, feelling ill

Call 522 2706 if you need anything

Mike Stout

From: Stout, Michael R
Sent: Monday, November 09, 2009 2:31 PM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Out

Have a doctor's appointment, most likely out the rest of the day.

Mike Stout

From: Stout, Michael R
Sent: Thursday, November 19, 2009 10:49 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L; Moore, Rita A
Subject: Off

In addition to being off on personal business today, tomorrow is a previously scheduled furlough day

In case of emergency, call Vickie O'Block at 782 4972.

Have a good weekend.

Mike Stout

From: Stout, Michael R
Sent: Friday, January 22, 2010 1:27 PM
To: Hannig, Gary; Kavanagh, Lisa L
Subject: Off

Gary

I will off this afternoon and most of next week, will let you know which days exactly later. Please feel free to call or email me if necessary

Mike Stout

From: Stout, Michael R
Sent: Tuesday, January 26, 2010 7:45 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Off most of today

I will be in the office for awhile later but off most of the day on personal business. Don't hesitate to call my cell or email me if necessary.

Mike Stout

From: Stout, Michael R
Sent: Thursday, January 28, 2010 7:25 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Today

Good morning

After a meeting away from the office, I will be off today. Feel free to call or email me if you need anything

Mike

Mike Stout

From: Stout, Michael R
Sent: Wednesday, February 03, 2010 12:24 AM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L
Subject: Up late probably off tomorrow

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Author Stout, Michael R

Recipients Hannig, Gary; Grunloh, Bill J; Kavanagh, Lisa L; Moore, Rita A

Subject Furlough day

Date Friday, April 02, 2010 8:53:16 AM

Sorry - forgot to let you know I'm on a furlough day today. Feel free to call me at home 522 2706 or email me if needed.
Have a good Easter weekend.
Mike

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Author Stout, Michael R

Recipients Hannig, Gary; Grunloh, Bill J; Kavanagh, Lisa L; Moore, Rita A

Subject Opening Day

Date Monday, April 12, 2010 8:44:35 AM

Yes, I be in St. Louis today, feel free to email me if necessary

Have a good day.

Mike

Kavanagh, Lisa L.

From: Stout, Michael R
Sent: Monday, April 19, 2010 4:14 PM
To: Hannig, Gary; Grunloh, Bill J
Cc: Kavanagh, Lisa L; Moore, Rita A
Subject: Tomorrow

A friend passed away over the weekend, his funeral is tomorrow out of town. I will be off tomorrow morning and part of the afternoon. Can be reached by email if necessary.